IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5962 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMPRASAD SANKATHAPRASAD

Versus

SUPERSHINE INDUSTRIES

Appearance:

MR LN MEDIPALLY for Petitioner (Absent)

MR KV GADHIA for Respondent No. 1 (Absent)

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 14/08/2000

ORAL JUDGEMENT

The petitioner has filed this petition under Article 227 of the Constitution of India being aggrieved by the judgment and award dated 16.2.1991 passed by the Labour Court in Reference (LCA) No. 940/83.

2. In the aforesaid Reference (LCA) No.940/83, the Presiding Officer of the Labour Court, on appreciation of evidence, arrived at a conclusion that the workman has failed in discharging his onus that he was relieved by the employer and, therefore, there is no question of paying any wages to the workman.

3. It appears that the petitioner workman took an amount of loan from the employer. As the employer demanded instalments towards repayment of the amount of loan, with a view to avoid the payment towards instalments, the workman stopped coming to work. It was pointed out that in view of this, letters were addressed to the Union. The workman was also served with similar letter and he was also served with a notice for remaining absent without prior leave. It was contended that as the workman was not relieved, there is no question of holding an inquiry.

4. The Labour Court, on appreciation of the material placed on record, found that after serving a notice on the workman, he was remaining absent and has not reported for duty. There is a letter calling upon him to make payment of the instalment of the amount of loan and as he had not paid the amount, he was also again given another notice. The Labour Court was also addressed in this behalf. The Labour Court, in paragraph 10 of its order, has appreciated all these aspects. It has also considered the fact that the Union was also informed in this behalf. On appreciation of evidence, the Labour Court was not in a position to accept the contentions raised by the workman. In paragraph 7 also, there is discussion about the evidence in this behalf. Though the workman received the letters, he has not reported for service. The Labour Court was conscious about the fact that it has to decide the dispute, but on appreciation of the evidence, the Court was not in a position to accept the contentions raised by the workman. Before the Labour Court, even the workman has not filed any purshis that he was and is willing to join the services. Considering the evidence placed before the Labour Court, the Labour Court has rejected the Reference.

5. The Apex Court in the case of MOHD. YUNUS vs. MOHD. MUSTAQUIM reported in AIR 1984 SC 38 held as under:

> "A mere wrong decision without anything more is not enough to attract the jurisdiction of the High Court under Article 227.

The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is limited "to seeing that an inferior Court or Tribunal functions within the limits of its authority", and not to correct an error apparent on the face of the record, much less an error of law. In this case there was, in our opinion, no error of law much less an error apparent on the face of the record. There was no failure on the part of the learned Subordinate Judge to exercise jurisdiction nor did he act in disregard of principles of natural justice. Nor was the procedure adopted by him not in consonance with the procedure established by law. In exercising the supervisory power under Art.227, the High Court does not act as an Appellate Court or Tribunal. It will not review or re-weigh the evidence upon which the determination of the inferior court or tribunal purports to be based or to correct errors of law in the decision."

6. In view of what is stated hereinabove, no interference is called for. Hence this petition is rejected. Rule is discharged. No order as to costs.

(B.C. PATEL, J.)

csm./